

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. No new matter has been added.

35 U.S.C. § 103

Claims 1-11, 17-41 and 49-52 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. (U.S. Patent No. 5,819,226) in view of Fischthal (U.S. Patent No. 5,822,741) and Downs, Sean, "Technology, education aid medical fraud fighting." Claims 12-16 and 45-48 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. in view of Fischthal, Downs, and Prezioso (U.S. Patent No. 5,724,488). Claims 53-64 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. in view of Fischthal, Downs, and Werstein Hann, Leslie "High Tech Sleuths". These rejections are respectfully traversed.

Each of the claims stand rejected, in part, based on the reference to Downs. A Declaration under 1.132 executed by Richard Billion, assignee of the current application, was previously submitted (the "Declaration") to demonstrate that the patent application was derived, in part, from the subject matter described in Downs (See M.P.E.P. 2132.01 Publications as 35 U.S.C. 102(a) Prior Art).

As stated in the Declaration, it is believed that Mr. Downs was an employee of HNC Software, Inc. (or one of its affiliated companies) at the time of filing of the current application, that Mr. Downs, a co-inventor on the current application, had an obligation to assign this patent application to HNC Software, Inc. at the time of filing of this patent application, and that the

subject matter described in the Downs reference describes subject matter from which the subject matter recited in the claims of this patent application was derived.

Applicant's disclosure of his or her own work within the year before the application filing date cannot be used against him or her under 35 U.S.C. 102(a). *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982). Therefore, in situations such as the current application, where the Applicant is one of the co-authors of a publication cited against his or her application, the publication may be removed as a reference by the filing of affidavits establishing that the relevant portions of the publication originated with, or were obtained from, Applicant. In particular, if the reference is disclosing Applicant's own work as derived from him or her, Applicant may submit 37 CFR 1.132 affidavit to show derivation of the reference subject matter from Applicant and invention by Applicant. *In re Facius*, 408 F.2d 1396, 161 USPQ 294 (CCPA 1969).

As stated in Downs, Mr. Downs was a president of a division of the assignee of the application as of the date it was filed (namely HNC Software). In addition, Mr. Downs had an obligation to assign his inventions to HNC Software as part of his employment. This along with the Declaration shows that the subject matter in the current application was derived from Downs.

Based on the foregoing, it is respectfully submitted that the Downs reference, which was published less than one year before the filing date of the current application, is not prior art and that the rejections under 35 USC § 103 based on the Downs reference should be withdrawn.

Moreover, certain amendments were made to the claims to further expedite allowance of the current subject matter which are not suggested by the current art.

Accordingly, the claims should be allowable.

Concluding Comments

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Applicant asks that all claims be allowed.

If there are any questions regarding these remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. A one-month extension of time is hereby petitioned. Authorization for a credit card payment of the one-month extension fee is submitted herewith. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 35006-577001US.

Respectfully submitted,

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